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OFFICE OF PETITIONS

In re Application of
Chen et al.
Application No. 10/613,750
Filed: July 3, 2003
Attorney Docket No. B-5154 621086-5

ON PETITION

This is a decision on the renewed petition to withdraw the holding of abandonment under 37 CFR 1.181 filed March 19, 2008.

The petition is **GRANTED**.

This application was held abandoned August 16, 2007 for failure to timely reply to the non-final Office action mailed on May 15, 2007. The Notice set a three (3) month extendable time period for reply. A Notice of Abandonment was mailed January 7, 2008. A petition filed under 37 CFR 1.181 was dismissed on March 4, 2008.

Petitioner asserts that a reply to the non-final Office action was submitted on August 15, 2007. As evidence, petitioner has submitted a copy of the reply which contains an amendment, specification, claims and figure 3. The response also includes a certificate of mailing dated August 15, 2007 pursuant to 37 CFR 1.8. Petitioner has also provided a copy of a postcard receipt with an Office stamp of August 20, 2007.

Pursuant to 37 CFR 1.8, correspondence will be considered timely if the party who forwarded such correspondence:

- (1) Informs the Office of the previous mailing or transmission of the correspondence promptly after becoming aware that the Office has no evidence of receipt of the correspondence;

- (2) Supplies an additional copy of the previously mailed or transmitted correspondence and certificate; and
- (3) Includes a statement which attests on a personal knowledge basis or to the satisfaction of the Director to the previous timely mailing or transmission. If the correspondence was sent by facsimile transmission, a copy of the sending unit's report confirming transmission may be used to support this statement. The Office may require additional evidence to determine if the correspondence was timely filed.

The petition satisfies the above requirements of 37 CFR 1.8(b). Accordingly, the holding of abandonment for failure to timely file a reply to the Office action of May 15, 2007 is hereby withdrawn and the application restored to pending status.

The copy of the reply received will be accepted in place of the reply shown to have been mailed (or transmitted by facsimile) on January 22, 2008.

It is noted the address presented on the petition differs from the correspondence address of record. While a courtesy copy of this decision is being mailed to the person signing the present petition, all future correspondence will be directed to the address currently of record until such time as appropriate instructions are received to the contrary.

This application is being referred to Technology Center AU 2134 for appropriate action in the normal course of business on the reply received.

Telephone inquiries concerning this matter should be directed to the undersigned at (571) 272-3215.

Charlema R. Grant

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